IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 18533 of 2003

Between:

Panchada Chittemma @ B. Somannamma, W/o. Bandaru Adinarayana,
R/o. Chodyam Galugonda (Mandal), Visakhapatnam District.

..... PETITIONER

AND

1 The Government of A.P., Rep. by its Principal Secretary,
Food & Agricultural Coop., Society Dept., Secretariat Hyderabad.
2 The District Cooperative Officer, Visakhapatnam.
3 Chodiyam Primary Agricultural Cooperative Credit
Society Ltd., Galugonda, Visakhapatnam.
4 The Divisional Cooperative Officer,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, order or direction preferably one in the nature of certiorari calling for the records of the Respondent pertaining to the order of the 3rd Respondent terminating his services dt. nil and its relevant resolution and to quash the same holding that the same is illegal, arbitrary, ultravires and against the principles of natural justice and consequently direct the Respondents to continue his services as an attender in the 3rd Respondent society with all back wages with continuity of services and with all attendant benefits.

Counsel for the Petitioner:MR.K.SARVA BHOUMA RAO

Counsel for the Respondent NOS. 1,2 & 4: GP FOR COOPERATION & AGRICULTURE

Counsel FOR RESPONDENT NO.3: NONE APPEARED.

The Court made the following :

O R D E R:

It is the case of the petitioner that her husband who worked as Accountant in the 3rd respondent-Chodiyam Primary Agricultural Cooperative Credit Society Limited, Galugonda, Visakhapatnam, died in the year 2000, while he was in service. Thereafter, on an application made by the petitioner to give appointment to her on compassionate grounds, she was given appointment as Attender in the 3rd respondent Society, vide orders, dated 21.01.2002 in Rc.NO.1699/01C and has been continuing in the services. As the matter stood thus, after the amendment of the Act, the services of the petitioner were terminated by the 2nd respondent-District Cooperative Officer, Visakhapatnam, on the ground that the appointment of the petitioner is made in violation of Act 2 of 1994 of the Andhra Pradesh Co-operative Societies Act (herein after called as 'Act') and also on the ground that the financial status of the Society is not in a position to continue her services. Hence, this writ petition is filed seeking a direction to the respondents to continue her services in the 3rd respondent Society as Attender.

Nowhere in the affidavit it is stated that whether the services of the petitioner are terminated only on the ground that her appointment is made in violation of Act 2 of 194 of the Act or her termination is made for implementing the mandatory provisions of Section 116-C of the Act. It is also not stated as to whether the

petitioner was appointed in any one of the approved vacancy of the respondent Society or not.

On going through the termination orders passed by the 2nd respondent-District Cooperative Officer, it is seen that the termination of the petitioner is made only on the ground that her appointment is made in violation of Act 2 of 1994 and on the directions of the Deputy Registrar of Cooperative Societies. As long as the appointments are made in conformity with Section 116-C, read with Rules 28 (4) and 36-B of the Act, it cannot be said that the said appointment order is in violation of Act 2 of 1994. Therefore, the impugned order is liable to be set aside and it is accordingly set aside.

The writ petition is accordingly allowed directing the 3rd respondent Society to pass appropriate orders in accordance with the provisions of Section 116-C read with Rule 28 (4) & 36-B of the Andhra Pradesh Co-operative Societies Act. No costs.

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V.ESWARAIAH.J

04.11.2004

tjs

ASSISTANT REGISTRAR

To

1 The Principal Secretary, Food & Agricultural Co-operative Society Department, Government of A.P., Secretariat, Hyderabad.
2 The District Cooperative Officer, Visakhapatnam.
3 Chodiyam Primary Agricultural Cooperative Credit Society Ltd., Galugonda, Visakhapatnam.
4 The Divisional Cooperative Officer, Visakhapatnam.

5 2CCs to the G.P.for Co-operation, High Court of A.P., Hyderabad.(OUT).

6 2CD copies.